

**NEWBERG PLANNING COMMISSION MINUTES**  
**April 14, 2016, 7:00 PM**  
**PUBLIC SAFETY BUILDING (401 E. THIRD STREET)**

Chair Allyn Edwards called the meeting to order at 7: 00 p.m.

**ROLL CALL**

Members Present:	Allyn Edwards, Chair	Jason Dale
	Philip Smith	Gary Bliss
	Cathy Stuhr	Ron Wolfe

Members Absent: Luis Saavedra, Student

Staff Present: Doug Rux, Community Development Director  
Bobbie Morgan, Office Assistant II  
Steve Olson, Senior Planner  
Sonya Johnson, Engineering Associate

**PUBLIC COMMENTS:**

None

**CONSENT CALENDAR:**

Approval of the February 25, 2016 Planning Commission Meeting Minutes  
Approval of the March 10, 2016 Planning Commission Meeting Minutes

**MOTION: PC Cathy Stuhr/PC Gary Bliss** moved to approve the February 25, 2016 and March 10, 2016 minutes. Motion carried (6 Yes/ 0 No).

**QUASI-JUDICIAL PUBLIC HEARING:** Chair Allyn Edwards opened the public hearing at 7:05 pm.

**Chehalem Aquatic & Fitness Center - Conditional Use Permit/Design Review/Code Adjustment application to build a 40,390 square foot addition with two pools next to the existing building, remodel the existing building into a gym, reconfigure the site for new parking, park and landscape areas; and to reduce the amount of required off-street parking. APPLICANT: Chehalem Park & Recreation District LOCATION: 1802 Haworth Avenue TAX LOT: 3217CA-1200 FILE NO.: CUP-16-001/DR2-16-001/ADJC-16-001 ORDER: 2016-20 CRITERIA: Newberg Development Code Sections 15.225.060, 15.220.050(B), 15.210.020(C).**

**Call for abstentions, bias, ex parte contact, and objections to jurisdiction:**

PC Philip Smith said he occasionally used the pool. Recently there was an election to expand the pool, and he voted in the election. He was a supporter of CPRD and their work. On this matter he had not spoken with CPRD or neighbors and thought he could be impartial.

Chair Allyn Edwards explained the public hearing process.

**Staff Report:** Senior Planner Steve Olson gave a PowerPoint presentation. This was a request to approve the expansion of the Chehalem Aquatic and Fitness Center. He explained the site location. There needed to be a Conditional Use Permit because it was an expansion of a recreational facility in the R-1 zone. The applicant tried to save as many trees on the site as possible. He then explained the site plan and right-of-way dedication. The original application was for 143 parking spaces, but they had to bring it up to 148 to meet the standards. He

explained how the applicant shifted the design to add five more parking spaces. He showed the perspective drawings and proposed floor plan and then summarized the approval criteria for the conditional use, design review, and code adjustment. Regarding the parking adjustment, a parking study was done and staff reviewed the Institute of Transportation Engineering's Parking Demand Manual to come up with the required number of spaces, which was 197 spaces. The applicant requested a 25% parking adjustment which was 148 spaces. To make up for the difference, the applicant was proposing to encourage students to bike to the site and there would be a shared parking agreement with the high school to allow use of 20 plus spaces in the south parking lot. They could also apply for a parking permit to use Hayworth for on street parking for large events which was an additional 20 spaces. The parking adjustment would allow the applicant to save trees on the site. Staff thought the demand management would be functional if the park district actively used the shared parking agreement. Regarding compatibility issues, they met 95% of the lighting plan as two spots needed to be revised to comply with the light trespass standard and it was feasible for them to fix that. One change from the staff report was he found out there was not a wooden fence all along the property line. It went along half of the property, and a chain link fence went along the other half. Some of the neighbors had hedges and some did not. Staff was proposing a visual buffer by putting in hedges all around the property, but contacting neighbors to see if they wanted a hedge or wanted to keep visibility to the park. There was a request to move the playground and basketball court further west from where they were proposed. Staff was not recommending they be moved as more trees would have to be removed and it would not reduce the noise. There were also requests for noise deadening by adding wooden fences and hedges, but they would not diminish the noise either. Only a masonry wall would be effective for noise, but staff was not recommending that. There was a lot of concern regarding the existing trees and there was an arborist report going into detail about the health of the trees. An arborist would be on call when there was excavation near the trees to monitor the health of the trees. There were comments about construction impacts, and the applicant could address those and make sure workers did not park on nearby streets. The Code had a time limit for construction of 7 am to 7 pm and if construction damaged streets or public infrastructure, the contractor would be responsible for repair by the end of the project. Staff found the design of the building was compatible with the existing building and a good fit on the site. If the code adjustment for the parking was approved, it would meet the parking code. The general layout provided a safe flow on the site and safer drop off site. There needed to be a setback change on one of the signs and right-of-way dedication on Haworth and Cherry Streets. If they were able to keep the existing curb side sidewalks along Villa up to the western driveway, it would allow some of the trees to remain and east of that the sidewalks would be set back. The water line would need to be eight inches instead of six and stormwater needed additional analysis. A traffic study was done and concluded the intersection would continue to perform at City standard and no transportation improvements were necessary. He discussed the landscape buffer which would be an arborvitae hedge along the eastern border where the neighbors desired a hedge. The site plan with 148 parking spaces, which would replace the 143 space plan, met the City's standards. There was a requirement for stormwater infiltration testing, however Engineering staff said it had been addressed by the information that was already submitted. There was no chlorine gas in use and there was no need for a decommissioning plan. He handed out additional information including the 148 parking space plan, chlorine letter, and suggested changes to the staff report.

PC Gary Bliss asked how staff determined that moving the playground or basketball court would not reduce noise. SP Steve Olson replied moving them might reduce it slightly, but he had seen studies that moving something 50 or 60 feet in the open air had almost no impact. There would have to be a forest of hedges to really block the sound. There would be more impact if they were moved further away, such as 100 to 200 feet.

PC Gary Bliss discussed how moving the playground further west and removing three trees could reduce noise by six decibels which put them in the threshold recommended by the EPA. SP Steve Olson said the applicant could describe the operating hours of the park, and moving of the park and basketball court was not part of the Conditional Use and none of the criteria applied to them. Only a 25 foot setback was required. The expansion of the pool was the Conditional Use.

PC Gary Bliss asked why it was determined that a storm water infiltration test was not required. SP Steve Olson said the City Engineer thought the study already looked at the infiltration and thought it had already been



addressed. AS Sonya Johnson responded the public works design standards did not require an infiltration test at this time. They required considering low impact development facilities and the applicant had chosen to go with a flow through facility so there was an underdrain. An extra infiltration test was not needed.

PC Cathy Stuhr said the code adjustment was a Type 1 decision that the Community Development Director could decide. Was the Planning Commission deciding that or was staff? SP Steve Olson replied it would be the Commission's decision. Since the Conditional Use Permit was a Planning Commission decision, the whole application was tied together and the Commission would be deciding all of it.

Chair Allyn Edwards discussed the arborist's report. Many of the trees fell in the poor health category, and he asked what would be done to those trees. SP Steve Olson replied one of the conditions of approval was having the arborist document what happened during construction, identifying any hazardous trees and removing them, and going tree by tree and removing any limbs that needed to be removed. The goal was by the end of construction to have a healthier stand of trees on the site.

Chair Allyn Edwards clarified there were currently 61 parking spaces and they would be increasing it to 148.

**Applicant:** Jim McMasters, CPRD Parks Supervisor, said the voters approved this expansion. They held several community meetings so people knew what the layout would be. He thought they could work with the conditions of approval and neighbors.

Sid Scott, Scott Edwards Architecture, presented slides on the application including the subject site, shared parking with the high school, proposed site plan, additional parking, arborist report, and public comments. The current pool would stay open in operation during construction of the new aquatic center and when the aquatic center was done, construction on the existing building would begin so there would be continued service. The plan for the trees was to save as many as possible. The current site had 169 trees and the current plan would be 205 trees. There would be many trees when the project was done. They would work with neighbors regarding the hedge and the concern regarding sidewalks on the property line.

Jim McMasters said the hours of the park were from dawn to dusk. He gave a history of where the playground and basketball court were placed and how they had been moved for safety as well as sound.

Sid Scott continued by stating the basketball court was originally 11 feet from the property line, was moved 210 feet, and was proposed to be 81 feet from the property line. The playground was originally 54 feet from the property line, moved 267 feet, and was proposed to go back to 54 feet where it was originally. He explained and showed slides of the new entries for the aquatic center and design of the new aquatic center and existing building.

Gene Loman, contractor, gave comments on the construction sequence and parking during construction. He explained the staging areas that would be used as well as temporary parking areas. They wanted to be good neighbors and would address any concerns that came up. They knew the curfew hours to work and would rarely ask for extensions outside of that.

PC Philip Smith asked why they were trying to maintain the trees instead of taking them down and putting in trees that would fit in with the neighborhood better. Jim McMasters replied they had heard from the community that they wanted to save as many trees as possible.

PC Philip Smith asked about the screening for the neighbors on the east and if someone could ask for a masonry wall. Jim McMasters replied it would be a vegetative screen only.

PC Philip Smith asked how they were going to make sure the parking plan worked regularly. Jim McMasters explained the extra parking at the high school would only be needed five or six times a year during swim meets. The swim meets would not grow that much larger, and would be done faster when there were eight lanes rather

than six lanes. The teams would not be able to park buses and parents could not park RVs in the parking lot, and the teams would be informed about parking at the high school and not in the neighborhood.

Chair Allyn Edwards asked if CPRD would provide a shuttle van between the high school and the new facility. Jim McMasters said if it was needed they would do that. They were trying to negate impacts on the community.

PC Ron Wolfe asked how much they had exceeded the requirement for greenspace and landscaping. SP Steve Olson said they were required to have 15% landscaping, and they had proposed 33%.

### **Public Testimony:**

#### **Proponents:**

Elizabeth Andrews, Newberg resident, discussed her connection with the pool and passion for the Newberg Aquatic Center. She was able to participate in swimming as a student, which taught her hard work and dedication which improved her academics, mental health, and handling her time wisely. She thought it was a continuation of her education. She was excited about the expansion as it would help give other students what she had experienced.

Lisa Rogers, Newberg resident, had participated with the Pool Committee from its inception to today. This group of citizens went to the community a number of times to make sure this project was what the community wanted. There had been a lot of citizen input.

George Sampson, Newberg resident, was a swim coach for the high school and community teams. Swim meets were held about nine times per year. They had discussed shuttling people from the high school parking lot. With the 148 parking spaces, there would be a lot better flow of traffic. The meets would not get any bigger. He did not think they would want to put extra parking on Haworth to keep the traffic flowing better and for safety.

Steve Wytcherley, Newberg resident, had joined the Save the Pool Campaign two years ago. His daughter was involved in the water polo team and he saw the need for a new aquatic center. He explained how he had helped with the campaign and joined the Pool Public Advisory Committee who helped design this expansion. He thought the aquatic center contributed to a flourishing community. There was a lot of passion and excitement for this project.

#### **Opponents:**

Karen McCabe, Newberg resident, said her property was on the east end of the park. She was concerned about the large trees on the property line. Two trees had fallen on her backyard last Christmas. There was still one tree that she was worried about. She also had to pick up large limbs out of her backyard and some had damaged her shed. Trees should not be close to the property line. She agreed with the arborvitae screen and would like the tall chain link fence to be repaired that had been damaged when the trees fell over. She was also concerned about the basketball court being too close as it was directly behind her house. It was one of the loudest amenities in the park. She would like to see it moved further away if possible. Traffic was horrible and on street parking was a problem. There should be a stop sign on Cherry, Sitka, and Haworth Streets. About 12 trees on the property line on the east side should be removed.

PC Stuhr asked if she was comfortable with an arborist coming to determine which trees needed to be removed. Ms. McCabe thought the one tree was already leaning and it was a danger.

Chair Allyn Edwards wanted to alleviate as many concerns as possible. The arborist report dealt with the angles of the trees and health of the trees and they would be considering what they could do for the trees.

#### **Undecided:**

Robert Soppe, Newberg resident, was a supporter of CPRD and this project. He thought the Commission needed to be careful with the request for a code adjustment. The applicant was asking for a reduction of 25% of the code



requirement, and the Commission needed to make sure the arguments for the reduction were accurate and enforceable. The average peak demand was 197 spaces, and the proposed adjustment was for 148 spaces. This would be 75% lower, which was not slightly lower and they did not know the expected peak demand. He also questioned how the average peak demand of 197 spaces was determined. Counts were taken only one day and he questioned if it was an average day as demand changed seasonally, daily, and randomly. This was weak data and should not be relied on. He thought the Transportation Demand Management Plan needed to be looked at to make sure it was realistic to the users' behaviors and demands, was it enforceable, and was it adequate to reduce the parking demand. CPRD might find itself in a difficult position if the plan was unsuccessful and the Commission might set a precedent for code adjustments. The applicant could support the argument that the number of parking spaces per square foot of the expanded facility would be less than with the existing facility to justify a lower parking requirement. He was glad to see the sidewalk on the east side was moved away from the curb.

Rebuttal: Applicant Jim McMasters said when the trees fell over on Ms. McCabe's property, an arborist came to assess the one remaining tree that was leaning. The tree was leaning for the sunlight and some limbs were trimmed and more needed to be trimmed. The ten foot chain link fence around her property was put in when the original basketball court was put in. It would be repaired. There were playgrounds in other parks that were close to the fence and not all parks had basketball courts. There would be more than 20 spaces available at the high school, as most of the events took place during the weekend and the high school parking lot was mostly vacant on the weekends.

Sid Scott said the basketball court was as far to the west of the site as they could go. The peak parking demand for the proposed facility was projected to be 197 parking spaces.

PC Philip Smith asked about the difference between the average parking demand and peak parking demand. Sid Scott did not know, only that the experts said that was the peak parking demand. Jim McMasters said the size of the meets was not increasing and the spectator area could only hold so many people. They could not hold state-wide type meets. The meets could be over sooner because there were more lanes.

PC Philip Smith thought there should be incentives for parking at the high school.

PC Cathy Stuhr said outdoor basketball was available at the high school and at other parks and indoor basketball at this facility. What if there was no outdoor basketball at this park? Jim McMasters said they were trying to have the amenities available to the community. The high school did not have outdoor basketball courts.

PC Philip Smith suggested adding conditions to the Conditional Use Permit that the arborist must certify that any tree within 100 feet of the eastern boundary had to be in good health or removed. Jim McMasters replied if the tree was unsafe, they would want to remove it.

PC Jason Dale discussed the peak parking and asked what would happen if there was not enough parking during those times. Jim McMasters replied if there was a problem, they could look at reducing the programming of the site.

**Close of public testimony:** Chair Allyn Edwards closed the public testimony at 8:47 pm.

**Final comments from staff:**

SP Steve Olson said staff recommended approval of Order 2016-20 as revised.

Chair Allyn Edwards recessed the meeting for a break at 8:48 pm and reconvened the meeting at 8:54 pm.

**Deliberation of commission:**

PC Jason Dale thought this was a good proposal. He agreed with adding a condition for an arborist to look at the trees that were 100 feet from the eastern boundary.

PC Philip Smith said after looking at the conditions, what he said before was unneeded.

Chair Allyn Edwards commented that the arborist ascertained the health of the trees and he thought anything that was 45% or less considered in poor condition should be removed.

PC Philip Smith asked what the definition of a hazardous tree was. SP Steve Olson explained the attempt was to give the arborist some discretion and authority to determine what was hazardous.

Chair Allyn Edwards agreed that the arborist on site should be the one to decide.

PC Cathy Stuhr appreciated the applicant working with the public. She thought they should consider adding into the findings the suggestion by Mr. Soppe regarding the parking. The changes to the staff report also needed to be included in the findings.

PC Gary Bliss was concerned with the relocation of the basketball court and playground. He hoped the park district would try to alleviate the use of those facilities at night.

**MOTION:** PC Philip Smith/PC Cathy Stuhr moved to adopt Order 2016-20 incorporating the proposed changes to the staff report and to the findings.

PC Philip Smith was concerned about having adequate parking.

Chair Allyn Edwards said the applicant would be monitoring the situation and there was a possibility in the future of clearing the northeastern area of the lot for additional parking. The facilities would be most used on the weekend, and the high school parking lot would be open on the weekends.

Motion carried (6 Yes/ 0 No).

The Commission took a five minute break.

**LEGISLATIVE PUBLIC HEARING:** Chair Allyn Edwards opened the public hearing at 9:12 pm.

**Recreational Marijuana Wholesalers, Laboratories, Research Certificates and Retailers:** *Consider a proposal to amend the Newberg Development Code Chapter 15.05.030 Definitions; 15.305 Zoning Use Tables; 15.342.110 Stream Corridor Overlay; 15.350.030 Civic Corridor Overlay; 15.356.050 Bypass Interchange Overlay; and 15.358.030 and 15.358.050 Interim Industrial overlay for regulations on recreational marijuana wholesalers, laboratories, research certificates and retailers as either permitted, conditional or prohibited uses. FILE NO.: DCA-16-001 RESOLUTION NO.: 2016-314*

**Call for abstentions, bias, ex parte contact, and objections to jurisdiction:** None.

**Staff Report:** Community Development Director Doug Rux presented the staff report. This recommendation had been forwarded by the Marijuana Subcommittee. It would allow in certain districts marijuana laboratories as a permitted use primarily in the commercial and industrial areas, recreational research certificates as a permitted use in the commercial and industrial districts, retailers as a permitted use in commercial with 1,000 foot buffers from parks and schools and limited to operation from 9 am to 8 pm, and marijuana wholesalers as a permitted use in residential districts and as conditional use in C-2 and permitted in industrial districts. Definitions for laboratory, retailer, and wholesaler would be added. Marijuana was legal per State law and he gave a background on the laws. OLCC anticipated issuing licenses for wholesalers, laboratories, and researchers in April of 2016 and for retailers



in July of 2016. One public comment had been received in support of retailers. The City could regulate place, time, and manner and a Land Use Compatibility Statement was required by OLCC before issuing the license. He explained the limitations of where these facilities could be located and emphasized OLCC would not issue licenses in primary residences. A research certificate was good for three years. Marijuana products had to be tested by a laboratory. There were many manner regulations in the laws for retailer operations. There was also a handler's permit required for marijuana handlers. Some of the laws had been changed in 2016. A medical marijuana dispensary could now sell medical and recreational marijuana and a recreational store could sell both medical and recreational. Retail would not be allowed in residential or industrial districts, community facilities, institutional districts, and would be allowed in commercial except in the civic corridor and have a 1,000 foot buffer from schools and parks. Wholesalers would be allowed in all residential categories with no product allowed on the premises. However, OLCC would not issue a license to a primary residence and it could not function as a home occupation. Wholesalers would be allowed as conditional use in the C-2 with a 1,000 foot buffer for parks and schools and would also be allowed in the industrial districts except for airport industrial. Laboratories would be allowed in commercial, institutional, and industrial except for airport industrial. Staff asked if the City should allow wholesalers in residential districts and if there should be a separation requirement from retail to retail or retail to medical dispensaries. He then discussed the tables showing what would be permitted or prohibited by each district. This was the first hearing on this issue, and the Commission's recommendation would be forwarded to the Council who would hold a second hearing. The City was providing the opportunity for operating legal businesses within the community for which there was demand, but it was not allowed everywhere in every district. Staff recommended approval of the resolution. Today a communication was received from Canna Bros Dispensaries regarding the 1,000 foot separation between medical dispensaries and retail facilities and he handed it out to the Commission to read.

PC Gary Bliss thought medical and recreational were supposed to be separate, but now they were being allowed in the same facility. CDD Doug Rux replied it started out with medical dispensaries selling to card holders, and recreational sales could be sold out of medical marijuana dispensaries until December 2016. Now in the 2016 legislative session they were being merged and could sell both in one facility. The rules would have to be modified, but he suggested moving forward with the information they had based upon the laws already adopted and go back later to reconcile for any discrepancies. The City had to have something in place before licenses were issued by OLCC.

PC Cathy Stuhr asked about wholesalers being allowed in residential. CDD Doug Rux replied staff recommended wholesalers be prohibited in all residential districts.

PC Philip Smith asked if the research locations could move into recreational or medical marijuana facilities. CDD Doug Rux stated researchers were a separate certificate regulated by OLCC which would allow them to have cannabis in their lab to do research. It was possible for a research facility to be in the same location as recreational or medical marijuana facilities.

PC Jason Dale asked if processors and labs needed to have a 1,000 foot buffer between facilities. CDD Doug Rux did not think so. He explained the buffer requirements for all of the uses. Processors were allowed as a conditional use in the C-2 and required a 1,000 foot buffer from schools and parks.

### **Public Testimony:**

#### **Proponents:**

Larry Brock of Canna Bros suggested adopting the 1,000 foot buffer between recreational retail sales and medical dispensaries. It was getting harder to find locations in the bigger cities for these facilities, such as in Portland, and they soon would be coming to the smaller cities like Newberg. He thought the City could get a lot more in taxes if they allowed recreational sales and they could decide where to allow them. He thought the City could better protect people by allowing recreational sales. He did not charge customers the 5% tax for medical marijuana, he

just paid it out of his pocket. He would probably make the recreational customers pay the 10% tax. He did not think patients should pay a tax to use a medical product.

Chair Allyn Edwards asked if he had both medical and recreational licenses. Larry Brock said no, the City did not allow recreational sales. He did plan to have both licenses in the future.

PC Philip Smith said if the proposed regulations went forward with a 1,000 foot buffer between outlets, it would only allow four possible locations. Larry Brock thought that was a good number for the City.

Larry Brock said regarding the processors, they would not be noticed in the City and did not think a 1,000 foot buffer was appropriate.

Opponents and Undecided: None

**Close of public testimony:** Chair Allyn Edwards closed the public hearing at 9:58 p.m.

**Final comments from staff:**

CDD Doug Rux said staff's recommendation was to adopt Resolution 2016-314 with the considerations that wholesalers not be allowed in residential districts due to the OLCC restrictions and the 1,000 foot separation between retailer and retailer or retailer and dispensaries.

**Deliberation of commission:**

PC Philip Smith thought wholesalers should be prohibited in residential districts. He thought C-2 should be the preferred place for recreational and medical marijuana establishments and that there should be a 1,000 foot separation between them.

**MOTION:** PC Cathy Stuhr/PC Ron Wolfe moved to approve Resolution 2016-314 with the following modifications: wholesalers were not allowed in any residential district or subdistrict and a 1,000 foot buffer be placed between retail to retail and retail to dispensaries. Motion carried (6 Yes/ 0 No).

**NEW BUSINESS:**

Economic Development Strategy

CDD Doug Rux said the Commission had the final strategy documents. The strategy would go to the City Council on April 18 for adoption by resolution.

**ITEMS FROM STAFF:**

CDD Doug Rux reported the Council adopted the recreational marijuana processors and producers recommendations with one modification regarding OLCC not issuing licenses for primary residences. He reminded the Commission to submit their Statement of Economic Interest forms by tomorrow. The Council gave staff direction to continue discussions with Sportsman Airpark about the purchase of development rights and approved the Rourke annexation. The Newberg 2030, the Urban Growth Boundary pre-work, was beginning. The Downtown Plan work was still underway. The next Planning Commission meeting would be held on May 12, 2016.

**ITEMS FROM COMMISSIONERS:**

PC Philip Smith suggested the cities of Dundee and Newberg and Yamhill County consider making a greenspace buffer between Newberg and Dundee so the natural growth of the cities would not come together.

PC Cathy Stuhr discussed something she read regarding onsite consumption of marijuana for employees with medical cards during a work shift as necessary for their medical condition if they were alone in an enclosed dark room and not visible to others, but could not be intoxicated while on duty.



Chair Allyn Edwards asked about the replacement of Patrick Johnson's seat on the Planning Commission as he had recently been appointed to the City Council. CDD Doug Rux said the opening would be advertised.


Chair Allyn Edwards adjourned the meeting at 10:12 p.m.

**Approved by the Newberg Planning Commission this 12 day of May, 2016.**



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Allyn Edwards, Planning Commission Chair



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Bobbie Morgan, Office Assistant II